

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

RON BLOCKER,

Plaintiff,

vs.

EQUITY GROUP EUFAULA DIVISION,
LLC,

Defendants.

Case No.: 2:07cv722MHT-WC

PLAINTIFF'S MOTION FOR LEAVE TO AMEND COMPLAINT

COMES NOW the Plaintiff, Ron Blocker, and moves this Court for an Order allowing him to amend his Amended Complaint. As grounds for said motion, Plaintiff would show unto this Court as follows:

1. Plaintiff has previously amended his Complaint to allege a cause of action against Equity Group Eufaula Division, LLC. Since the time of Plaintiff's Amended Complaint, the Defendant has removed this case to Federal Court.
2. The Defendant has filed a motion for more definite statement. Plaintiff seeks permission to amend his Complaint to allege a more definite statement.

WHEREFORE, PREMISES CONSIDERED, Plaintiff moves this Court for an Order permitting him to amend his amended Complaint.

Respectfully submitted,

s/Jerry Roberson
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OF COUNSEL:

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CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of September, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Joel P. Smith, Jr.
WILLIAMS, POTTHOFF, WILLIAMS
& SMITH, L.L.C.
Post Office Box 880
Eufaula, Alabama 36072-00880

s/Jerry Roberson
Jerry Roberson (ROB010)

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**PLAINTIFF HEREBY DEMANDS
TRIAL BY STRUCK JURY**

PLAINTIFF'S SECOND AMENDED COMPLAINT

COMES NOW the Plaintiff, Ron Blocker, and re-alleges and incorporates by reference all of the allegations contained in his first amended complaint.

I. JURISDICTION

1. This Court is vested with jurisdiction as pursuant to 28 U.S.C. § 1441 and 1446. All of the alleged illegal conduct occurred at the defendant's plant located in Eufaula, Alabama.

II. PARTIES

2. Defendant Equity Group Eufaula Division, LLC (hereinafter Equity Group), is a Delaware corporation with its principal place of business in Eufaula, Alabama. Equity Group operates a chicken processing plant and employs over 100 persons. Equity Group was doing business at all times relevant hereto in Barbour County.

COUNT ONE

Retaliation under the FSLA

4. At all times relevant hereto, defendant Equity Group operated a chicken processing plant in Barbour County, Alabama. Defendant Equity Group was the employer

of the plaintiff.

5. Plaintiff was originally hired as an hourly, non-exempt worker in the maintenance department. Plaintiff received overtime wages for all hours over 40 worked each week.

6. Defendant Equity Group, through its managing agents, Red Bludsworth and Greg Mills, advised plaintiff that the company was starting a policy of no overtime. These discussions took place at the plant location in Barbour County shortly before Plaintiff accepted the position of a salaried supervisor. Defendant Equity Group, through its managing agents, advised plaintiff that he would make more money under the new policy by becoming a salaried supervisor and that he would work less than 45 hours per week.

7. Defendant Equity Group never implemented the new no-overtime policy. Plaintiff was required to work in his salaried position up to 80 hours per week. Plaintiff did not receive overtime in the salaried position. Plaintiff's wages were reduced from his previous hourly pay-rate.

8. Plaintiff complained to management about his new position, the fact that he was working 80 hours per week and was not allowed receive overtime, that his wages were reduced, and that the defendant claimed that they were implementing a no-overtime policy.

9. Defendant fired plaintiff on May 17, 2005 in retaliation for his complaints about misleading him to take a salaried position in violation of the FLSA. The reasons given for the plaintiff's discharge are pretextual.

10. The defendant Equity Group, has violated 29 U.S.C. § 2001, *et seq.* commonly known as the Fair Labor Standards Act. (Hereinafter referred to as the FLSA).

11. The plaintiff's discharge was in retaliation for his complaints under the FLSA.

Defendant's misconduct was willful and entitles plaintiff to liquidated damages.

COUNT TWO

Fraud / Suppression

12. The plaintiff re-alleges and incorporates by reference all the preceding paragraphs of his Complaint and Amended Complaint.

13. Defendant Equity Group, by and through its authorized managing agents, Red Bludsworth and Greg Mills, made the following misrepresentations to the plaintiff at its Barbour County plant location shortly before he accepted the position as a salaried supervisor: 1) that the defendant was implementing a new no-overtime policy; 2) that he would make more money as a salaried supervisor than as a hourly worker; and 3) that he would work no more than 45 hours per week.

14. When Equity Group, through its authorized agents, made the above representations, it intentionally, negligently, or recklessly misrepresented the material facts to the Plaintiff Blocker. Blocker justifiably relied on the misrepresentations and accepted the salaried position. If he had known that he would be working more than 45 hours per week, he would have never accepted the position.

15. Plaintiff later complained about the defendant's misrepresentations and was discharged shortly thereafter, for the pretextual reasons.

16. Plaintiff did not learn, and a reasonable person would not have learned, that his discharge violated the FLSA and was fraudulent. Plaintiff did not learn until he spoke with counsel for the Plaintiff in the fall of 2006, that the Defendant's conduct may have violated his federal rights and been fraudulent.

WHEREFORE, premises considered, plaintiff demands the following relief:

- a) reinstatement;
- b) back-pay, with interest;
- c) damages in the amount of his respective unpaid compensation, plus an equal amount as liquidated damages pursuant to the FLSA;
- d) reasonable attorney's fees as provided under the FLSA;
- e) pre-judgment interest;
- f) all costs and expenses;
- g) equitable relief;
- h) compensatory and punitive damages;
- i) trial by jury on all claims.

PLAINTIFF HEREBY DEMANDS TRIAL BY STRUCK JURY.

Respectfully submitted,

s/Jerry Roberson
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